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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,572	12/05/2003	Ian Zenoni	2050.100US1	8936
44367 7590 07/31/2008 SCHWEGMAN, LUNDBERG & WOESSNER/OPEN TV P.O. BOX 2938 MINNEAPOLIS, MN 55402-0938				
EXAMINER SCHNURR, JOHN R				
ART UNIT 2623		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/728,572

**Applicant(s)**

ZENONI, IAN

**Examiner**

JOHN R. SCHNURR

**Art Unit**

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This Office Action is in response to the Amendment after Non-Final Rejection filed 05/21/2008. Claims 1-16 are pending and have been examined.

#### *Response to Arguments*

2. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

#### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims **1-6 and 9-14** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Russ et al. (US Patent Application Publication 2004/0049790)**, herein Russ, in view of **Su (US Patent Application Publication 2002/0199190)**.

Consider **claim 1**, Russ clearly teaches a method for sending interactive textual and graphical data from a content provider to a user's set-top box through a satellite broadcast system, said method comprising:

receiving said textual data and said graphical data from said content provider in a server that is located in an uplink center; (**Fig. 1: Content servers 102 and 104 provide data to BCS server 106, [0018] and [0019]. The BCS server 106 broadcasts the data over a satellite network, [0021]. The data may include program guide data, which includes textual and graphical data, [0015].**)

retrieving said textual and said graphical data from said server into an application streamer coupled to said server;  
using said application streamer to create a file directory structure based on said textual data; (**Fig. 4: The BCS server 106 creates a**

Art Unit: 2623

**hierarchical file system containing all data available from the content servers, [0028]-[0030].)**

using said application streamer to create a node tree on a broadcast streamer by mirroring said file directory structure such that each file in said file directory structure becomes a node in said node tree on said broadcast streamer; **(Each of the files in the file system are assigned a position for broadcast, [0031]-[0032].)**

allocating bandwidth and transmission frequency to each node of said node tree based on a corresponding priority of each said node; **(The BCS server 106 broadcasts certain files more frequently, [0033].)**

using said broadcast streamer to multiplex said nodes of said node tree with a regular broadcast stream resulting in an interactive data stream; **(The carousel objects are received in-band, [0036].)**

sending said interactive data stream to said user's set-top box. **([0036])**

However, Russ does not explicitly teach converting said textual data into OpenTV data and converting said graphical data into MPEG data in said application streamer;

In an analogous art, Su, which discloses a system for broadcasting a carousel of data, clearly teaches converting text data into OpenTV data and graphical data into MPEG data. **(Fig. 4: H20 248 converts the content into client readable content, [0034]. The images are transcoded into MPEG data, [0022], and the text is converted into OpenTV data, [0046].)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Russ by converting text data into OpenTV data and graphical data into MPEG data, as taught by Su, for the benefit of broadcasting data requiring less bandwidth and less client processing ([0010] Su).

Consider **claim 2**, Russ combined with Su, as in claim 1, clearly teaches using set-top box application software to read said interactive data stream and display said interactive data stream on a user's display device; **([0036] Russ)** and monitoring said application streamer with a computer. **([0032] Russ)**

Consider **claim 3**, Russ combined with Su, as in claim 1, clearly teaches said step of retrieving said textual data and said graphical data from said server further comprises querying said server for new data. **(The network operator retrieves the content from services 200, [0034] Su.)**

Consider **claim 4**, Russ combined with Su, as in claim 1, clearly teaches said step of converting said textual data into said OpenTV data and converting said graphical data into said MPEG data further comprises creating system alerts. **([0095] Su)**

Consider **claim 5**, Russ combined with Su, as in claim 1, clearly teaches said step of creating system alerts comprises creating alerts upon detection of errors within said satellite broadcast system using SNMP traps, event logging, and visual queues in a graphical user interface. **([0039], [0040] and [0095] Su)**

Consider **claim 6**, Russ combined with Su, as in claim 1, clearly teaches said step of monitoring said application streamer by a computer further comprises monitoring said application streamer, configuring said application streamer, making any necessary changes to said application streamer. **(The BCS server 106 monitors the files being added and deleted from the file system and modifies the files being broadcast, [0031] and [0032].)**

Consider **claim 9**, see claim 1.

Consider **claim 10**, see claim 2.

Consider **claim 11**, see claim 3.

Consider **claim 12**, see claim 4.

Consider **claim 13**, see claim 5.

Consider **claim 14**, see claim 6.

5. Claims **7, 8, 15 and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Russ et al. (US Patent Application Publication 2004/0049790)** in view of **Su (US Patent Application Publication 2002/0199190)**, as applied to claim 6 above, further in view of **Standridge et al. (US Patent 6,618,353)**, herein Standridge.

Consider **claim 7**, Russ combined with Su, as in claim 6, clearly teaches monitoring the application streamer.

However, Russ combined with Su, as in claim 6, does not explicitly teach using a DCOM user interface over a network connection.

In an analogous art, Standridge, which discloses a system for distributing video data, clearly teaches using a DCOM user interface over a network connection. **(column 2 line 59 to column 3 line 14)**

Art Unit: 2623

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Russ combined with Su by using a DCOM user interface over a network connection, as taught by Standridge, for the benefit of automatically handling the details of network communication protocols.

Consider **claim 8**, Russ does not specifically teach said step of monitoring said application streamer further comprises monitoring the connection to said broadcast streamer, monitoring the connection to said server, and monitoring the status of said interactive data stream on said broadcast server.

Su additionally teaches monitoring said application streamer further comprises monitoring the connection to said broadcast streamer, monitoring the connection to said server, and monitoring the status of said interactive data stream on said broadcast server. **(([0039], [0040] and [0095] Su)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Russ combined with Su and Standridge by monitoring the connection to said broadcast streamer, monitoring the connection to said server, and monitoring the status of said interactive data stream on said broadcast server, as further taught by Su, for the benefit of detecting errors.

Consider **claim 15**, see claim 7.

Consider **claim 16**, see claim 8.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 2623

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN R. SCHNURR whose telephone number is (571)270-1458. The examiner can normally be reached on Monday - Friday, 8:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 2623

JRS

/Christopher Grant/  
Supervisory Patent Examiner, Art Unit 2623